IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION Nos. 27224 of 1995 & 10958 of 1998

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1)WRIT PETITION NO : 27224 of 1995

Between:

Quality Printers, a registered firm under small scale industries, rep. By its Proprietor D.Rasool Naik,

S/o. Hussaini Naik, r/o. Himayathnagar, Hyderabad

..... PETITIONER

AND

1)The Special Officer, A.P. Chamber of Panchayat Raj, Hyderabad.

2)The Secretary, Panchayat Raj Dept.,

Govt. of A.P., Hyderabad

3)State Bank of India, Kurnool rep. by its Chief Manager

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction, more particularly one in the nature of Writ of Mandamus, directing the respondents to settle the claim of the petitioner

forthwith in terms of G.O Ms. No.1256, DT. 6.12.1985 and pay the amount due to him as claimed in demand notice dated 09.10.1995 which was received by the second respondent and annexures I and II of this petition.

Counsel for the Petitioner: MR.E.AYYAPU REDDY

Counsel for the Respondent No.1: Sri A.V.Krishna Koundinya

Counsel for the Respondent no.2: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the Respondent No.3: None appeared.

2) WRIT PETITION NO : 10958 of 1998

Between:

Quality Printers, a registered firm under small scale industries, rep. By its Proprietor D.Rasool Naik,

S/o. Hussaini Naik, r/o. Himayathnagar, Hyderabad

..... PETITIONER

AND

1)The Special Officer, A.P. Chamber of Panchayat Raj, Hyderabad.

2)The Secretary, Panchayat Raj Dept.,

Govt. of A.P., Hyderabad

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly in the nature of writ of Mandamus directing the respondents to pay the arrears of bills of the petitioner's firm in accordance with the provisions of G.O Ms. No.1256, dated 6.12.1985 issued by the second respondent.

Counsel for the Petitioner: MR.E.AYYAPU REDDY

Counsel for the Respondent No.1: Sri A.V.Krishna Koundinya

Counsel for the Respondent no.2: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

The Court made the following :

COMMON ORDER :

Heard Sri E.Ayyapu Reddy, learned senior counsel for the petitioner and Sri A.V.Krishna Koundinya, learned counsel appearing for respondents.

The petitioner herein, which is a small scale industry doing business in printing press, *inter alia,* seeks a Writ of Mandamus for implementation of G.O. Rt. No.1256, Industries & Commerce (SSI) Department, dated 06.12.1985, and settle the claim in respect of the amount to which the petitioner is entitled.

Case of the petitioner, in brief, is that in terms of the tenders invited, the petitioner's bid was accepted and it was supplying required material to the first respondent from 20.01.1990 to 08.07.1992. For the purpose of the said business, the petitioner had to avail financial assistance from banks, who had already filed civil suits for recovery of the same. However, now the contention of the petitioner is that having regard to the scheme as envisaged under G.O. Rt. No.1256, Industries & Commerce (SSI) Department, dated 06.12.1985, assistance was extended to the petitioner like industries and for settling the amounts. It was further pointed out that on the earlier occasion, the petitioner approached this Court in Writ Petition No. 3032 of 1994 for a direction to the respondents to settle the claim of petitioner and pay the amount due to him, and after contest, this Court disposed of the same directing the respondents to pay the admitted amount of Rs. 3,30,986-90 ps. to the petitioner, and in regard to the disputed amount, a direction was given to file a claim before the first respondent with regard to the same and thereupon, the first respondent was directed to settle the same by way of arbitration.

In terms of the aforesaid orders, it is submitted that one Sri K.Showri Reddy, advocate and retired employee, was appointed as arbitrator. However, across the bar, there is a complaint from both the sides that the other was not co-operating with the arbitrator and therefore, the matter could not ultimately be finalised and the arbitrator had to

resign. Therefore, there is no finality arrived at in regard to the said arbitration proceedings as already directed.

Having heard the learned counsel on either side and also on perusal of the material the main question which has to be considered is as to whether the petitioner is entitled to make a claim in terms of the G.O. Rt. No.1256, Industries & Commerce (SSI) Department, dated 06.12.1985 and seek further reference for arbitration ?

There is no dispute to the fact that having regard to the supplies made in terms of the tenders sought for by the respondents herein, the petitioner supplied goods with the financial assistance from Banks, and institution of civil suits by the Banks for recovery of the same. The scheme is enunciated for settlement of the amounts, for which the claim is now sought to be made by the petitioner. There is no dispute in regard to certain amounts falling due by respondents to petitioner and on the earlier occasion, as recorded in the orders in Writ Petition No. 3032 of 1994, the said amount was already paid. However, there has been substantial disputed amount still remaining balance. Though an arbitrator was appointed, the proceedings could not be completed for the reason that there was no proper co-operation forthcoming from the parties. In the circumstances, it is not now open for the respondents to go back and deny any liability as such or even the applicability of the aforesaid G.O. Rt. No.1256, Industries & Commerce (SSI) Department, dated 06.12.1985. The only question which requires to be gone into is in regard to the amount to which the petitioner is entitled, which can be done only by arbitration as directed earlier. Since the arbitrator appointed earlier could not complete the proceedings, it would suffice in the interest of justice to appoint another arbitrator in his place, to proceed with the enquiry.

The Writ Petitions are, accordingly disposed of by appointing Sri

A.Subramanyam, Advocate, as arbitrator, before whom both sides shall come out with their respective claims and objections. The arbitrator, after holding an enquiry thereupon, shall pass an award in respect of the amount to which the petitioner is entitled. Having regard to the long lapse of time, it is more desirable that the arbitration proceedings shall be completed within a period of three months from the date of entering into the reference. No costs.

It is needless to mention that the bank guarantee, if any, given during pendency of the proceedings, shall continue to be extended until completion of the proceedings.

(B.Prakash Rao, J.)

07.02.2005

DRK

Copy to:

1)The Special Officer, A.P. Chamber of
Panchayat Raj, Hyderabad.

2)The Secretary, Panchayat Raj Dept.,

Govt. of A.P., Hyderabad

3) The Chief Manager, State Bank of India, Kurnool

4) Mr. M.Subramanyam, Advocate, who is appointed as Arbitrator.

5)Two CCs. to the G.P. for Panchayat Raj and Rural Development, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

6) Two CD copies.

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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